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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,316	02/06/2004	Leo Sartor	14610	6480
293 7590 10/09/2008 Ralph A. Dowell of DOWELL & DOWELL P.C. 2111 Eisenhower Ave Suite 406 Alexandria, VA 22314				
EXAMINER				
GRAHAM, MARK S				
ART UNIT		PAPER NUMBER		
3711				
MAIL DATE		DELIVERY MODE		
10/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/772,316

Applicant(s)

SARTOR ET AL.

Examiner

Mark S. Graham

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-10, 13-17, 31, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10, 13-17, 31, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application.
- 6) ☐ Other: ____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8-10, 13, 14, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lallemand in view of Tiitola '269. Note Lallemand's foam core and mesh fiber layers 1, 2, and 3 which are then impregnated and covered with a thermoplastic resin.

Lallemand discloses the claimed device with the exception of the particularly claimed foam and thermoplastic and arguably the outer sheet being devoid of fibers. However, with regard to the particularly claimed materials the examiner took official notice that the foams and thermoplastics claimed by applicant are commonly known and such is now admitted prior art. It would have been obvious to one of ordinary skill in the art to have chosen which ever of these was desired to obtain a particular strength, weight, or flexibility characteristic in the blade in view of Tiitola '269.

With regard to the fiberless outer sheets, Tiitola '269 discloses that it is known in the art to use wood, plastic, or fiber sheets as the outermost sheet material on hockey blades. It would have been obvious to one of ordinary skill in the art to have used such on Lallemand's blade as well for the reasons espoused by Tiitola '269. The exact hardness of the sheets would obviously have been up to the ordinarily skilled artisan depending on the strength desired in the protective outer sheets. As to the type of plastic used in the sheets the examiner took official notice that the thermoplastics

claimed by applicant are commonly known and such is now admitted prior art. It would have been obvious to one of ordinary skill in the art to have chosen which ever of these was desired to obtain a particular strength, weight, or flexibility characteristic in the blade.

Claims 1-6, 8-10, 13-16, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McGrath in view of Tiitola '269. Note McGrath's Fig. 14 embodiment and the discussion of the various materials that may be used therein discussed on pages 15-37. McGrath discloses multiple layers which may be woven and may contain the fiber angles claimed. Thermoplastic material may be used as the resin.

McGrath discloses the claimed device with the arguable exception of the outer sheet being devoid of fibers. However, with regard to the fiberless outer sheets, Tiitola '269 discloses that it is known in the art to use wood, plastic, or fiber sheets as the outermost sheet material on hockey blades. It would have been obvious to one of ordinary skill in the art to have used such on McGrath's blade as well for the reasons espoused by Tiitola '269. The exact hardness of the sheets would obviously have been up to the ordinarily skilled artisan depending on the strength desired in the protective outer sheets. As to the type of plastic used in the sheets the examiner took official notice that the thermoplastics claimed by applicant are commonly known and such is now admitted prior art. Moreover, this is the type of plastic that McGrath uses in the other parts of his blade. It would have been obvious to one of ordinary skill in the art to have chosen which ever of these was desired to obtain a particular strength, weight, or flexibility characteristic in the blade.

Claims 17, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 16 above, and further in view of Battis for the reasons set forth in the previous office actions application of Battis regarding the indicia.

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication should be directed to Mark S. Graham at telephone number 571-272-4410.

MSG
10/7/08

/Mark S. Graham/
Primary Examiner, Art Unit 3711